

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

1096-1100 RIVER ROAD ASSOCIATES, LLC;
FRED A. DAIBES, LLC; and FRED A. DAIBES,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-05390 (SMB)

STIPULATION FOR VOLUNTARY DISMISSAL OF CLAIM

The plaintiff, Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L. Madoff, individually (“Madoff”), and Defendants 1096-1100 River Road Associates, LLC, Fred A. Daibes, LLC, and Fred A. Daibes (“Defendants”), by and through their respective, undersigned counsel (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 9, 2010, the Trustee filed and served the Complaint against Defendants.

2. On June 22, 2015, the Supreme Court of the United States denied *certiorari* of the Trustee's appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128, and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the "Supreme Court Decision"), and thus section 546(e) of the Bankruptcy Code applies to this adversary proceeding.

3. On August 26, 2014, Defendants served an answer on the Trustee.

4. In accordance with Federal Rule of Bankruptcy 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal of Count One of the Complaint.

5. This Stipulation shall have no effect on or application to the Trustee's remaining claims in Counts Two through Eight of the Complaint.

6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

7. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: New York, New York

August 23, 2016

/s/ Keith R. Murphy

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Liquidation of Bernard L. Madoff
Investment Securities LLC
and the estate of Bernard L. Madoff*